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COUNTY OF LOS ANGELES DEPARTMENT OF AUDITOR-CONTROLLER

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May 29, 2015

TO: Supervisor Michael D. Antonovich, Mayor
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe

FROM: John Naimo
Auditor-Controller

SUBJECT: **PROBATION DEPARTMENT – CONTRACTING REVIEW**

We have completed a review of the Probation Department's (Probation or Department) contracting practices to evaluate the Department's compliance with the County Fiscal Manual, County contracting policies, and Internal Services Department guidelines. Our review focused on key contract areas including solicitations, proposal evaluations, and reporting contract information. Our review included interviews with Probation personnel, a review of contracting records, and an evaluation of Probation's contracting procedures.

Summary of Findings

Overall, Probation has policies and procedures that generally follow County contracting guidelines. For example, Probation conducted appropriate outreach for the three solicitations we reviewed, and gave proposers sufficient time to submit proposals. However, we identified opportunities for Probation management to improve the Department's compliance with County contracting requirements and/or strengthen their contracting processes to ensure those processes are fair, equitable, consistent, and adequately documented. The following are examples of areas for improvement:

- Probation should ensure that scoring categories in evaluation documents are divided into sufficiently detailed sub-categories to enhance the transparency and objectivity of each evaluator's conclusions. For all three solicitations we reviewed, Probation's evaluation documents contained very broad rating categories that required evaluators to consider many disparate criteria. For example, evaluation documents for two solicitations each contained a scoring

category that was worth 30% of the total score, and required evaluators to consider 18 different requirements to arrive at a single score.

Probation's Response – Probation's attached response indicates that their evaluation documents contain criteria that are subject to objective application.

Auditor's Response – In the three sets of evaluation documents we reviewed, Probation did not provide any guidance on which of the multiple Request for Proposals requirements in each rating category were more critical than others. As a result, evaluators had to subjectively determine the importance of each requirement. Because evaluators may have differing opinions about the importance of each requirement, the resulting scores may not be consistent, and may not equate to the Department's view of what is important.

- Probation needs to improve the consistency of their reference check process and ensure reference checks are adequately documented. For all three solicitations reviewed, we noted that Probation did not rate the same number of references for each proposer, and did not document the method for selecting which references to contact.

Probation's response indicates that they will consider revising their procedures.

- Probation needs to require evaluators to sign conflict of interest forms. None of the evaluators signed a conflict of interest form to certify that they did not have an affiliation with any proposer. In addition, seven of the nine evaluators for the proposals we reviewed did not sign confidentiality forms until after they had evaluated the proposals.

Probation's response indicates that they will consider revising their procedures as recommended.

- Probation should ensure evaluators clearly document any scoring changes and provide comments that adequately support assigned scores. For two solicitations, we noted instances where evaluators did not adequately document scoring changes. We also noted instances where comments did not adequately support the scores.

Probation's Response – Probation's response indicates that the Department's practice for documenting scoring changes and providing comments to support scores is consistent with Board of Supervisors (Board) policy.

Auditor's Response – We agree that the Department generally follows Board policy for evaluating proposals. However, we noted instances where scores were revised with no indication of who changed the scores or when, and instances where evaluators' comments did not adequately support the scores.

- Probation should ensure that all sole source contracts are adequately justified and should maintain documentation supporting the justification. For one of the four sole source contracts reviewed, Probation was unable to provide adequate support for the stated need for a sole source contract.

Probation's Response – Probation's response indicates that the Department's sole source contracts comply with Board policy, which requires departments to provide a sole source justification checklist that is reviewed and approved by the Chief Executive Office (CEO) prior to submittal to the Board.

Auditor's Response – As noted in our report, Probation did complete a sole source checklist that was approved by the CEO, as required. However, for one of the four contracts reviewed, Probation's justification on the checklist (i.e., need for quick action) was inconsistent with the two years the Department had to develop the program and implement the services.

Details of these and other findings and recommendations are included in the attached report (Attachment I).

Review of Report

We discussed the results of our review with Probation management. The Department's attached response (Attachment II) indicates general agreement with some of our findings and recommendations, and describes actions they have taken or plan to take to implement our recommendations. For other findings and recommendations, Probation's response indicates that their current practice complies with County contracting guidelines. However, as noted above and in the attached report, implementing our recommendations can help Probation strengthen their contracting processes.

We thank Probation management and staff for their cooperation and assistance during our review. If you have any questions, please contact me, or your staff may contact Robert Smythe at (213) 253-0100.

JN:AB:RS:TK

Attachments

c: Sachi A. Hamai, Interim Chief Executive Officer
Jerry E. Powers, Chief Probation Officer
Jim Jones, Director, Internal Services Department
Dave Chittenden, Chief Deputy Director, Internal Services Department
Public Information Office
Audit Committee

PROBATION DEPARTMENT CONTRACTING REVIEW

Background

The Probation Department (Probation or Department) contracts with vendors to provide a variety of services, such as education enhancement, job placement and job readiness, and clerical services. Probation's Contract & Grants Management Division is responsible for contract solicitation and evaluation, and maintaining contract information in the County's databases. As of January 20, 2015, Probation had 131 contracts with an annual cost of approximately \$82 million.

Scope

We reviewed Probation's contracting practices to evaluate the Department's compliance with the County Fiscal Manual (CFM), Internal Services Department's (ISD) Service Contracting Manual (SCM), and the Department's contracting policies and procedures. Our review primarily focused on the Department's processes for soliciting and evaluating contracts, and for recording contract information in Countywide databases. We also evaluated areas where Probation could strengthen their contracting process.

Solicitation and Evaluation

We reviewed Probation's solicitation process for three solicitations performed using the Request for Proposals (RFP) method. Two of the three solicitations resulted in multiple contracts covering various service areas/districts. We reviewed proposal evaluations for one of the service areas/districts for each of these two solicitations.

We noted that Probation generally follows the County's solicitation and evaluation processes and evaluates proposals using the Informed Averaging scoring method, as required. However, we noted opportunities for Probation to strengthen their solicitation and evaluation process.

Evaluation Documents

Under the Informed Averaging scoring methodology, departments develop evaluation documents that evaluation committee members use to score proposals. There is no required format for evaluation documents, but the SCM includes a sample evaluation document for reference. In addition, Chapter 7 of the SCM indicates that departments should tailor evaluation documents for each solicitation, use criteria that are subject to objective application, and allocate points to each criterion based on its relative importance to the overall RFP requirements.

For the three solicitations we reviewed, Probation followed the format of the sample evaluation document provided in the SCM. However, although Probation inserted descriptions and questions specific to each solicitation, Probation did not customize the

document by dividing major scoring categories into sufficiently detailed sub-categories that would enhance transparency and objectivity of the proposal evaluation process. As a result, the evaluation documents contained very broad rating categories that covered multiple criteria.

For example, evaluation documents for two of the three solicitations each contained a scoring category that was worth 30% of the total score, and required evaluators to consider 18 different RFP requirements to arrive at a single score. Because the evaluation documents did not provide any guidance on which of the RFP requirements were more critical than others, evaluators had to subjectively determine the relative importance of each requirement. Evaluators may have differing opinions about the importance of various RFP requirements, so the resulting scores may not be consistent, and may not equate to the Department's view of what is important. Probation should divide broad scoring categories into more detailed sub-categories in evaluation documents, where appropriate, to enhance the transparency and objectivity of the proposal evaluation and scoring process.

We also noted that the rating criteria in Probation's evaluation documents consisted primarily of yes/no questions, often asking if the proposer provided required information or addressed specific RFP requirements. However, per SCM Section 7.3, evaluation criteria should not be yes/no questions, but should be questions that require evaluators to provide thorough explanations. We noted that some evaluator comments indicated whether or not the proposer provided the required information, but did not address the quality of the information. Probation can strengthen their evaluation process by providing evaluation criteria that require evaluators to comment on the quality of the information provided.

Recommendations

Probation Department management:

- 1. Utilize more detailed scoring sub-categories in evaluation documents, where appropriate, to allow for more transparency of the proposals evaluation and scoring process.**
- 2. Ensure rating criteria in evaluation documents require evaluators to comment on the quality of the information provided in proposals.**

Evaluator Comments and Scores

Board of Supervisors (Board) Policy 5.054 requires departments to use the Informed Averaging scoring methodology for evaluating proposals received in response to competitive solicitations. Under the Informed Averaging methodology, evaluators are supposed to independently review and score each proposal on individual evaluation worksheets, then meet as a group to discuss the evaluations. After the evaluation committee meeting, evaluators individually determine if they wish to change any scores.

Any changes in an individual evaluator's score must be documented on the individual evaluation worksheet, so that a clear audit trail of the evaluation scoring is maintained. In addition, evaluators must provide comments that appropriately support the assigned scores, including comments explaining any changes to the scores.

Probation used the Informed Averaging methodology for evaluating proposals for the three solicitations we reviewed. However, we noted the following areas where Probation can strengthen their procedures:

- **Erased and revised scores** – For two solicitations, we noted 18 instances where scores were erased and revised, with no documentation of who changed the scores or when. In eight of these 18 instances, the comments were also erased and revised, which may be an indication that the scores were changed after the evaluation committee meeting. To preserve the integrity of evaluation scores and to maintain a clear audit trail of the evaluation scoring process, evaluators should clearly document scoring changes by striking out the original score, writing the new score, initialing the change, and providing comments to support the revised rating.
- **Comments not adequate to support scores** – For two solicitations, we noted instances where the comments did not adequately support the assigned scores, and in some instances appeared inconsistent with the score. For example, on one evaluation document, the comments indicated that the proposer met various rating criteria, and that information for one requirement was vague, but there were no comments indicating why the evaluator assigned a score of “exceeds” for the category. On another evaluation document, the evaluator assigned a score of “exceeds” for a scoring category, but only provided comments that addressed a few of the 18 rating criteria for that category. Therefore, it was not clear how the evaluator determined the appropriate score.

Recommendations

Probation Department management:

3. **Ensure evaluators clearly document any scoring changes by striking out the original score, writing the new score, initialing the change, and providing comments to support the revised rating.**
4. **Ensure evaluators include written comments that adequately support the assigned score for each section of the evaluation document.**

Reference Checks

Probation requires proposers to submit references to allow for an assessment of potential contractors' past performance. Per Probation's procedures, staff should contact proposers' references, assign scores based on the responses, and document all

calls using a reference scoring sheet. Probation's procedures also indicate that, if more than one reference is checked, staff should average the scores to calculate a proposer's total score for references. SCM Section 7.3.1 indicates that it is generally acceptable to make three attempts to contact a reference, and that if contact is not made by the third attempt or the contact information the proposer provided is inaccurate, the proposer should not receive any credit for the reference.

For the three solicitations reviewed, we noted the following areas where Probation can strengthen their reference check procedures:

- **Inconsistent number of references rated** – For each of the three solicitations, Probation staff did not rate the same number of references for each proposer. For example, for one solicitation, staff rated three references for two proposers, but only two references for the other two proposers, and averaged the respective proposers' rated references to calculate the overall score. Rating an inconsistent number of references may create the appearance of bias by disproportionately impacting the overall reference score.
- **No documented method for selecting which references to contact** – Probation staff indicated that they generally contact references in the order they are listed on each proposer's list of references. However, for all three solicitations, we noted instances where staff did not contact references in the order they were listed, and there was no documentation of how staff selected which references to contact. To avoid the appearance of bias or unfairness, Probation should document the method for selecting which references to check.
- **No documentation of who performed reference checks** – Probation's reference scoring sheets for all three solicitations did not have an area for staff performing the reference checks to indicate their name and/or signature, and none of the scoring sheets identified the staff who checked references.
- **Person contacted different from contact provided** – For one solicitation, we noted five instances where staff contacted a person who was different from the contact person on the proposers' reference lists, without documenting the reason for doing so. Because using a different contact person may impact the outcome of the reference score, Probation management should ensure that staff performing reference checks document reasons for contacting someone other than the contact person provided.
- **Required number of references not consistent in RFP** – For one of the three solicitations, the narrative of the RFP indicated that proposers must provide at least three references. However, the RFP attachment instructed proposers to list five references. Probation should ensure that requirements are consistent throughout all RFP sections.

Recommendations**Probation Department management:**

5. **Revise procedures for checking references to require staff to score a consistent number of references and to use a consistent and documented method for selecting which references to check.**
6. **Require staff to document who performs reference checks, and revise the reference scoring form to include a space for staff to indicate their name and/or signature.**
7. **Ensure staff conducting reference checks directly contact the specific person proposers provide, or document the reason for contacting a different person.**
8. **Ensure proposal submission requirements are consistent throughout all Request for Proposals sections.**

Conflict of Interest and Confidentiality Forms

To preserve the integrity of the solicitation process, departments should ensure that evaluators do not have actual or perceived conflicts of interest, and that evaluators keep all evaluation materials confidential. One method of ensuring this is to require evaluators to sign conflict of interest and confidentiality forms.

Probation's procedures require evaluators to sign confidentiality forms before evaluating proposals. However, seven (78%) of the nine evaluators for the proposals reviewed did not sign the confidentiality forms until after they had evaluated the proposals. Evaluation materials such as evaluation documents and vendor proposals are at the greatest risk of disclosure during the evaluation process, when evaluators have the documents in their possession. We also noted that Probation's procedures do not require evaluators to sign conflict of interest forms, and none of the evaluators signed a conflict of interest form or any other document to certify that they did not have an affiliation with any proposer. To preserve the integrity of the solicitation process, Probation management should require evaluators to sign conflict of interest and confidentiality forms before evaluating proposals.

Recommendation

9. **Probation Department management revise departmental procedures to require evaluators to sign conflict of interest and confidentiality forms before evaluating proposals.**

Scoring Errors

Departments should ensure that evaluators properly assign and calculate scores for each rating category to arrive at the final proposal scoring. For one solicitation, we noted that one evaluator gave a score that was higher than the score assigned to one rating category. For another solicitation, we noted that the Department incorrectly added the scores for one rating category. Although the errors did not impact the outcome of the solicitations, Probation management should ensure that staff verify the accuracy of proposal scoring to ensure that scoring errors do not result in contracts being awarded to a lower-scoring proposer.

Recommendation

- 10. Probation Department management ensure that staff verify the accuracy of proposal scoring.**

Sole Source Contracts

Board Policy 5.100 requires County departments to provide the Board advance written notice of any sole source contracts of \$250,000 or more that the department plans to negotiate. In addition, any department requesting Board approval of a sole source contract must include a completed sole source checklist approved by the Chief Executive Office (CEO) along with the Board letter. The purpose of these requirements is to ensure the competitive bidding process is not undermined by sole source contracting, and that sole source contracts are appropriately justified and meet the County's sole source criteria. For example, a sole source contract is justified if the service is available from only one source or if there is an emergency situation.

We reviewed four sole source contracts over \$250,000, and noted that Probation provided the Board advance written notice and a completed sole source checklist approved by the CEO, as required. However, for one of the four sole source contracts reviewed, Probation was unable to provide adequate documentation supporting the need to enter into a sole source contract. According to Probation's sole source checklist, a sole source contract was justified because Probation needed to take quick action to implement the services in order to comply with a settlement agreement with the Department of Justice. However, we noted that Probation had at least two years from the time the settlement agreement was signed to get the services in place. Probation management indicated that, due to the complexity of the required services, the Department did not have enough time to develop a program of services, conduct a competitive solicitation, and implement the services within the required timeframe. However, Probation was unable to provide adequate documentation to support why two years was not sufficient time. Probation management should ensure that all sole source contracts are adequately justified and meet the County's criteria for sole source contracts, and maintain documentation supporting the justification.

Recommendation

- 11. Probation Department management ensure all sole source contracts are adequately justified and meet the County's criteria for sole source contracts, and maintain documentation supporting the justification.**

Contract Reporting

CFM Section 12.4.4 and Board Policy 5.015 require departments to maintain accurate information in the electronic Countywide Accounting and Purchasing System (eCAPS) and ISD's County Contract Database (CCD). eCAPS includes contract information such as spending limits, expenditures, and expiration dates to help departments monitor contract activity. Departments are responsible for reviewing eCAPS reports monthly to ensure contract information is properly updated and to identify contracts nearing expiration. The CCD includes contract information for Proposition A/Living Wage, information technology, cafeteria services, and construction contracts to help other departments evaluate potential contractors/vendors for these types of contracts. Departments are required to enter contract information in the CCD within five business days of the contract award, and to complete a contract evaluation checklist at least annually, or at the end of the contract period if it is less than one year.

We noted that Probation did not enter one (10%) of the ten contracts that should have been entered in the CCD, even though the contract was awarded over four years ago. Because other departments are responsible for reviewing past contractor performance in the CCD prior to recommending contracts, Probation should ensure that all Proposition A/Living Wage, information technology, cafeteria services, and construction contracts are entered in the CCD, and ensure staff complete the required annual evaluation checklists.

We also noted that Probation had not entered two contracts in eCAPS, even though the contracts had been active for at least three months. Probation management should ensure staff review eCAPS contract reports monthly to confirm that contract information in eCAPS is updated as required by Board policy.

Recommendations**Probation Department management:**

- 12. Ensure staff enter all Proposition A/Living Wage, information technology, cafeteria services, and construction contracts in the County Contract Database, and complete contractor evaluation checklists at least annually.**
- 13. Review electronic Countywide Accounting and Purchasing System contract reports monthly to confirm that contract information is updated.**



**COUNTY OF LOS ANGELES
PROBATION DEPARTMENT**

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JERRY E. POWERS
Chief Probation Officer

March 9, 2015

TO: John Naimo
Auditor-Controller

FROM: Jerry E. Powers *J. E. Powers*
Chief Probation Officer

**SUBJECT: RESPONSE TO AUDITOR-CONTROLLER'S DRAFT CONTRACTING
REVIEW**

Attached is Probation's response to the recommendations contained in the Auditor-Controller's Draft Contracting Review of the Department's contracting practices. We would like to thank your project team for the professionalism in which they conducted their review.

We also appreciate the opportunity to include our response with your report. If you have any questions, please contact me or your staff may contact Kym Renner, Administrative Deputy (562) 940-2516.

JEP:KR:th

Attachment

PROBATION DEPARTMENT
RESPONSE TO AUDITOR-CONTROLLER'S DRAFT CONTRACTING REVIEW

Solicitation and Evaluation

Evaluation Documents

Recommendation 1:

Utilize more detailed scoring sub-categories in evaluation documents, where appropriate, to allow for more transparency of the proposals evaluation and scoring process.

Response:

Probation tailors its evaluation documents using criteria (e.g. Background and Experience, Approach to Providing the Required Services, Quality Control Plan and Cost Proposal) that are subject to objective application and points are allocated to each criterion based on its relative importance to the overall RFP requirements. This is consistent with County contracting policies and Internal Services Department guidelines.

Recommendation 2:

Ensure rating criteria in evaluation documents require evaluators to comment on the quality of the information provided in proposals.

Response:

Probation's Evaluation Worksheets includes questions for each rating criterion that requires evaluators to comment on the quality of the information. Evaluators are instructed to review and focus on all areas listed for each criterion and to assess and evaluate the section in its totality. This is consistent with County contracting policies and Internal Services Department guidelines.

Evaluator Comments and Scores

Recommendation 3:

Ensure evaluators clearly document any scoring changes by striking out the original score, writing the new score, initialing the change, and providing comments to support the revised rating.

Response:

Consistent with the Board's 2009 Evaluation Methodology for Proposals Policy, during the Evaluation Committee meeting, Evaluators are given an opportunity to revise his/her scores and corresponding comments after group discussion. In the event that a score is revised, the Evaluator strike out the original score, document the new score and provides comments to support the revised rating.

Recommendation 4:

Ensure evaluators include written comments that adequately support the assigned score for each section of the evaluation document.

Response:

Consistent with the Board's 2009 Evaluation Methodology for Proposals Policy, during the Initial Evaluation Committee meeting, evaluators are provided with verbal and written instructions to provide sufficient comments to document and support their ratings. Evaluators independently review and score each proposal using the solicitation document and Individual Evaluation Worksheets. Each Evaluator then assigns ratings for each criterion on the Individual Evaluation Worksheets and records his/her comments and notes to support their score.

Reference Checks

Recommendation 5:

Revise procedures for checking references to require staff to score a consistent number of references and to use a consistent and documented method for selecting which references to check.

Response:

It is Probation's practice for staff conducting reference checks to contact and score the same number of references for each proposer. Probation will consider revising procedures to strengthen this practice.

Recommendation 6:

Require staff to document who performs reference checks, and revise the reference scoring form to include a space for staff to indicate their name and/or signature.

Response:

Probation has incorporated a space in the reference scoring form to indicate the name of the staff performing the reference check.

Recommendation 7:

Ensure staff conducting reference checks contact the contact person proposers provide, or document the reason for contacting a different person.

Response:

Probation will document in further detail why a different person is contacted other than the person listed on the reference document.

Recommendation 8:

Ensure proposal submission requirements are consistent throughout all RFP sections.

Response:

Probation will continue to ensure that proposal submission requirements are consistent throughout all RFP sections.

Conflict of Interest and Confidentiality Forms

Recommendation 9:

Probation management revise departmental procedures to require evaluators to sign conflict of interest and confidentiality forms before evaluating proposals.

Response:

Probation will consider revising procedures as recommended.

Scoring Errors

Recommendation 10:

Probation management ensure that staff verify the accuracy of proposal scoring.

Response:

Probation has added an additional level of review to ensure the accuracy of proposal scoring.

Sole Source Contracts

Recommendation 11:

Probation management ensure all sole source contracts are adequately justified and meet the County's criteria for sole source contracts, and maintain documentation supporting the justification.

Response:

Probation sole source contracts comply with the February 6, 2008 CEO Board letter-Approval of Revised Board of Supervisors Policy 5.100 which requires departments to provide a Sole Source Justification Checklist that is reviewed and approved by the CEO to ensure compliance with the criteria for sole source contracts prior to submittal to the Board. Probation's Sole Source Justification Checklists are reviewed and approved by the CEO pursuant to this policy.

Contract Reporting

Recommendation 12:

Ensure staff enter all Proposition A/Living Wage, information technology, cafeteria services, and construction contracts in the County Contract Database, and complete contractor evaluation checklists at least annually.

Response:

Probation will ensure that staff enters all required contracts in the County Contract Database and complete contractor evaluation checklist at least annually.

Recommendation 13:

Review electronic Countywide Accounting and Purchasing System contract reports monthly to confirm that contract information is updated.

Response:

Probation will ensure that staff reviews the Countywide Accounting and Purchasing System contract reports monthly to ensure that all information is updated.